

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-212015

DATE: August 10, 1983

MATTER OF: TRC Environmental Consultants, Inc.

DIGEST:

Protest received in GAO more than 10 days after the protester is notified by the agency of the unacceptability of its proposal and specific reasons therefor is untimely.

TRC Environmental Consultants, Inc. (TRC), protests its elimination from the competitive range under request for proposals (RFP) No. DAAD09-82-R0021 issued by the Department of the Army.

For the reasons set forth below, we dismiss the protest as untimely filed.

By letter dated June 3, 1983, and received by us on June 6, 1983, TRC protested the Army's disqualification of the proposal it submitted in response to the RFP. TRC contended that the Army had improperly determined that TRC's proposal was unacceptable because its proposed staff and facilities were substantial distances from the contracting activity. TRC also asserted that it was as capable as any of the companies which the Army placed in the competitive range. No dates were given by TRC in its protest letter other than September 20, 1982, the date the company submitted its initial proposal.

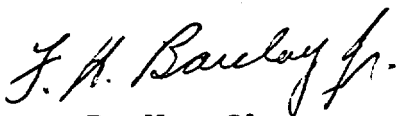
In its report to our office dated July 20, 1983, the Army took the position that TRC's protest was untimely. The report stated that TRC had been notified of the unacceptability of its proposal and the reasons for such a determination by certified mail dated March 7, 1983. The Army also submitted documentation showing that the notification letter was received by TRC on March 15, 1983.

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Our Bid Protest Procedures require that a protest be filed with GAO within 10 days after the basis for protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(b)(2) (1983). Further, the proper course is to dismiss a protest when we are apprised of facts warranting dismissal at any stage of the protest. See Sea-Land Service, Inc.--Reconsideration, B-208690.3, April 13, 1983, 83-1 CPD 393. In this regard, our revised Bid Protest Procedures presently provide that when the propriety of dismissal becomes clear only after information is provided by the contracting agency, the protest shall be dismissed at that time. 48 Fed. Reg. 1932 (1983) (to be codified 4 C.F.R. § 21.3(9)).

The Army's report shows that TRC's initial proposal was one of the five proposals found to be susceptible to being made acceptable. On November 30, 1982, the Army sent TRC a letter stating that the company's proposal was deficient and needed additional information in six specific areas, one of which was "coordination between widely dispersed staff elements." In response, TRC submitted an addendum to its technical proposal. Following evaluation of the addendum, TRC's proposal was determined not acceptable. As stated above, TRC was notified of the unacceptability of its proposal by letter from the Army dated March 7, 1983. The letter specifically stated that TRC's additional information failed to address the deficiencies listed in the Army's November 30, 1982, letter. Consequently, we agree with the Army that TRC's protest of June 6, 1983, is untimely.

Accordingly, TRC's protest is dismissed.


for Harry R. Van Cleve
Acting General Counsel